

REMARKS

After amendment, claims 51-66 remain pending in the present application. All previously pending claims are canceled. The newly added claims are presented to track the Examiner's indication of the allowability of previously pending claims 48 and 49 on page 13 of the October 31, 2008 office action. Support for the amendment to the claims can be found throughout the originally filed application and claims. No new matter has been added by way of the present amendment.

The Examiner has withdrawn a number of objections and rejections of the instant application, has maintained certain rejections and presented newly cited art in making further rejections of the previously pending claims. In response, Applicants have made the decision to obviate all of the rejections to the previously pending claims by acceding to the Examiner's recognition of allowable subject matter and present new claims 51-66 which are consistent with the Examiner's recognition of allowable subject matter.

Applicants address each of the Examiner's objections/rejections of the previously pending claims in the sections which follow.

The 35 U.S.C. §112, Second Paragraph Rejection

The Examiner has rejected previously pending claim 50 under 35 U.S.C. §112, second paragraph, for the reasons which are stated in the office action on page 5. Applicants respond by pointing out that claim 50 has been canceled, thus rendering any further discussion of this rejection moot.

The 35 U.S.C. §102 Rejection

The Examiner has maintained the rejection of previously pending claims 23-29 and 47 under 35 U.S.C. §102 over Belleau, et al., U.S. patent no. 7,119,202 ("Belleau"), for the reasons which are stated in the office action on pages 3-5. Inasmuch, as claims

23-29 have been cancelled by this amendment, Applicants respectfully assert that the Examiner's rejection has been rendered moot. No further discussion of this issue is believed to be merited.

The 35 U.S.C. §103 Rejection

The Examiner has rejected the previously filed claims under §103 as set forth in the office action on pages 5-12 as being obvious/unpatentable over Belleau, in view of the Merck Manual of Diagnosis and Therapy, 17th edition ("Merck") and further in view of Kim, et al., *Antimicrobial Agents and Chemotherapy*, June, 2007, pp. 2078-2084 ("Kim") for the reasons which are set forth therein. Applicants have cancelled all claims to which the Examiner raised his rejection. In addition, Applicants cancelled claims 48 and 49, which the Examiner has indicated contain allowable subject matter, and present newly drafted claims 51-66 which meet the Examiner's conditions for allowability. The newly presented independent claims 51 and 59, and consequently all the other claims (which are dependent on claims 51 and 59), contain the subject matter which is presented specifically in claims 48 and 49 and further incorporate all limitations of the base claim and intervening claims. Applicants respectfully submit that newly presented claims 51-66 now fully comply with the Examiner's condition for allowability. All of the claims which are newly presented in this amendment are patentable over the art cited against the previously pending claims.

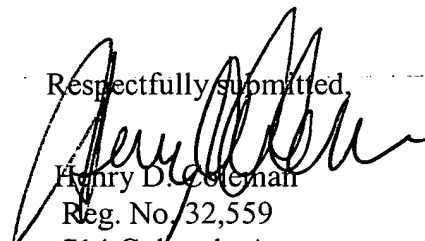
For all of the above reasons, and as indicated on page 13 of the October 31, 2009 office action, it is respectfully submitted that newly presented claims 51-66, which incorporate the limitations of previously pending claims 48 and 49 and all of the relevant limitations of the intervening claims from which those claims depend, are patentable. Consequently, it is respectfully submitted that the pending claims are in condition for allowance and such action is earnestly solicited.

No fee is due for the presentation of the present amendment/response. Claims 1-50 (including three independent claims) have been cancelled from the present application

and 16 claims (including two independent claims) have been added. No fee is therefore due for the presentation of this amendment. A petition for an extension of time of two months is enclosed as is the appropriate fee. Small entity status continues to apply to the present invention. Please charge any additional fee due or credit any overpayment previously made to Deposit Account No. 04-0838.

Dated: March 30, 2009

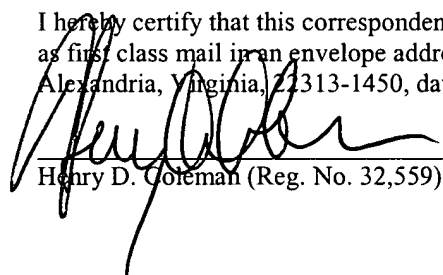
Respectfully submitted,



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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450, dated March 30, 2009.



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